

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

**ADAM JASON APODACA**  
154 Oceanview Ave.  
Grover Beach, CA 93433

Respondent

Case No. 2012-199

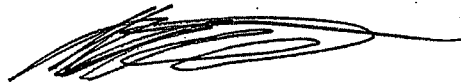
OAH No. 2011100828

**DEFAULT DECISION AND ORDER**

**IT IS SO ORDERED** that the application of Respondent ADAM JASON APODACA is hereby denied.

This Decision shall become effective on **August 3, 2012**.

**IT IS SO ORDERED July 3, 2012**



Board of Registered Nursing  
Department of Consumer Affairs  
State of California

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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
13 Against:

14 **ADAM JASON APODACA**

15 **Applicant for Registered Nurse License**

16 Respondent.

Case No. 2012-199  
OAH No. 2011100828

17 **DEFAULT DECISION AND ORDER**

[Gov. Code, § 11520]

18 **FINDINGS OF FACT**

19 1. On or about October 4, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, filed  
21 Statement of Issues No. 2012-199 against Adam Jason Apodaca (Respondent) before the Board  
22 of Registered Nursing (Board), Department of Consumer Affairs.

23 2. On or about November 10, 2010, Respondent submitted an application to the Board  
24 for a Registered Nurse License.

25 3. On or about February 18, 2011, the Board issued a letter denying Respondent's  
26 application for licensure. On or about March 10, 2011, Respondent appealed the Board's denial  
27 of his application and requested a hearing.

28 4. On or about October 4, 2011, Stella Esquivel, an employee of the Department of

Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 2012-199, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address on the application form, which was and is:

154 Oceanview Avenue  
Grover Beach, CA 93433.

A copy of the Statement of Issues is attached as Exhibit "A," and is incorporated herein by reference.

5. Service of the Statement of Issues was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c)

6. On or about March 10, 2011, Respondent appealed the denial of his application and requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's address on the application and it informed him that an administrative hearing in this matter was scheduled for March 19, 2012.

7. On or about March 9, 2012, Respondent withdrew his request for hearing by way of a document entitled "Respondent's Withdrawal of Request for Hearing," which is attached hereto as Exhibit "B" and is incorporated herein by reference. The withdrawal request states, in pertinent part:

In accordance with California Code of Regulations, title 1, section 1014, subdivision (c), I hereby withdraw my request for hearing previously filed on or about March 10, 2011, and waive my right to a hearing in the above-entitled matter. I understand that the Board of Registered Nursing shall decide whether to (1) proceed with the hearing as a default, (2) withdraw the matter, or (3) take the matter off calendar and issue a default decision and order. I understand that the outcome of this proceeding or default decision may be denial of my application for licensure.

8. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

9. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to

1 respondent; and where the burden of proof is on the respondent to establish that the  
2 respondent is entitled to the agency action sought, the agency may act without taking  
evidence.

3 10. Pursuant to its authority under Government Code section 11520, the Board finds  
4 Respondent is in default. The Board will take action without further hearing and, based on  
5 evidence on file herein, finds that the allegations, in Statement of Issues No. 2012-199 are true.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Adam Jason Apodaca has  
8 subjected his application for Registered Nurse License to denial.

9 2. Service of Statement of Issues No. 2012-199 and related documents was proper and  
10 in accordance with the law.

11 3. The agency has jurisdiction to adjudicate this case by default.

12 4. The Board is authorized to deny Respondent's application for licensure based upon  
13 the following violations alleged in the Statement of Issues:

14 a. Conviction of a crime substantially related to the qualifications, functions, and  
15 duties of a registered nurse. (Bus. & Prof., §§ 480, subd. (a)(1), 2736.)

16 b. Commission of an act involving dishonesty with the intent to substantially  
17 benefit. (Bus. & Prof., § 480, subd. (a)(2).)

18 c. Knowingly making a false statement of fact in connection with an application  
19 for licensure. (Bus. & Prof., § 480, subd. (c).)

20 d. Committing acts which if done by a licentiate would be grounds for suspension  
21 or revocation. (Bus. & Prof., § 480, subd. (a)(3)(A)–(B).)

### DECISION AND ORDER

IT IS SO ORDERED that the application for Applicant for Registered Nurse License, filed by Respondent Adam Jason Apodaca, is denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 3, 2012.

It is so ORDERED July 3, 2012

  
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FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Statement of Issues No. 2012-199

Exhibit B: Respondent's Withdrawal of Request for Hearing

Exhibit A

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Statement of Issues No. 2012-199

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Senior Assistant Attorney General  
3 MATTHEW A. KING  
Deputy Attorney General  
4 State Bar No. 265691  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-7446  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 BEFORE THE  
BOARD OF REGISTERED NURSING  
9 DEPARTMENT OF CONSUMER AFFAIRS  
10 STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues  
Against:

12 ADAM JASON APODACA  
13 154 Oceanview Avenue  
14 Grover Beach, CA 93433

15 Respondent.

Case No. 2012-199

STATEMENT OF ISSUES

16 Complainant alleges:

17 PARTIES

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in  
19 her official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
20 Department of Consumer Affairs.

21 2. On or about November 10, 2010, the Board received an application for Licensure by  
22 Examination as a Registered Nurse from Adam Jason Apodaca (Respondent). On or about  
23 November 14, 2010, Respondent certified under penalty of perjury to the truthfulness of all  
24 statements, answers, and representations in the application. The Board denied the application on  
25 February 18, 2011.

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1 M000402765). The Court sentenced Respondent to four days in jail and placed him on one year  
2 of probation. The circumstances of the conviction are that on or about April 15, 2007, California  
3 Highway Patrol Officer Egan observed Respondent driving a vehicle and weaving. Officer Egan  
4 conducted an enforcement stop and determined that Respondent's license was suspended.

5 c. On or about May 10, 2006, Respondent was convicted, upon a plea of *nolo*  
6 *contendere*, of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)  
7 (driving while having 0.08 percent or more, by weight, of alcohol in the blood), in the criminal  
8 proceeding entitled *The People of the State of California v. Adam Jason Apodaca* (Super. Ct. San  
9 Luis Obispo County, 2006, No. M000387057). The Court sentenced Respondent to twenty days  
10 in jail and placed him on three years probation. The circumstances of the conviction are that on  
11 or about April 7, 2006, City of Grover Beach Police Department Officer De Leija observed  
12 Respondent occupying a vehicle with its emergency lights flashing. As Officer De Leija  
13 approached Respondent to offer assistance, Respondent rolled down his window and in a slurred  
14 manner asked the officer whether he had seen a vehicle Respondent was looking for. Respondent  
15 exhibited red, glassy eyes and exuded a strong odor of an alcoholic beverage. When asked if he  
16 had been drinking, Respondent first denied consuming alcohol, then admitted that he consumed  
17 two glasses of wine prior to driving. Respondent submitted to a Preliminary Alcohol Screening  
18 Test, which returned a result of 0.156 percent breath alcohol content.

19 d. On or about June 24, 2005, Respondent was convicted, upon a plea of *nolo*  
20 *contendere*, of one misdemeanor count of violating Vehicle Code section 14601.5, subdivision (a)  
21 (driving while driving privilege is suspended or revoked) in the criminal proceeding entitled *The*  
22 *People of the State of California v. Adam Jason Apodaca* (Super. Ct. San Luis Obispo County,  
23 2005, No. M000373632). The Court ordered Respondent to pay a fine. The circumstances of the  
24 conviction are that on or about May 17, 2005, Respondent drove a vehicle knowing that his  
25 license was suspended.

26 e. On or about May 4, 2005, Respondent was convicted, upon a plea of *nolo contendere*,  
27 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) (driving  
28 while having 0.08 percent or more, by weight, of alcohol in the blood), in the criminal proceeding

1 entitled *The People of the State of California v. Adam Jason Apodaca* (Super. Ct. San Luis  
2 Obispo County, 2005, No. M000371719). The Court sentenced Respondent to two days in jail  
3 and placed him on three years probation. The circumstances of the conviction are that on or  
4 about April 10, 2005, Respondent drove a vehicle while having a blood alcohol content of 0.14  
5 percent.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 **(Commission of Dishonest Act)**

8 8. Respondent's application is subject to denial under Code section 480, subdivision  
9 (a)(2), in that Respondent committed a dishonest act with the intent to substantially benefit  
10 himself or to substantially injure another. Complainant refers to, and by this reference  
11 incorporates, the allegations set forth in paragraph 7, subparagraphs (a)–(e), as though set forth  
12 fully.

13 **THIRD CAUSE FOR DENIAL OF APPLICATION**

14 **(Knowingly Making a False Statement of Fact)**

15 9. Respondent's application is subject to denial under Code section 480, subdivision (c),  
16 in that Respondent knowingly made a false statement of fact by certifying that his application for  
17 licensure was true and complete despite failing to disclose the conviction described in paragraph  
18 7, subparagraph (d). Complainant refers to, and by this reference incorporates, the allegations set  
19 forth in paragraphs 7–8, as though set forth fully.

20 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

21 **(Acts Warranting Denial of Licensure)**

22 10. Respondent's application is subject to denial under Code section 480, subdivisions  
23 (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a licentiate would be  
24 grounds for suspension or revocation of his license. Complainant refers to, and by this reference  
25 incorporates, the allegations set forth in paragraphs 7–9, as though set forth fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Adam Jason Apodaca for Licensure by Examination as a Registered Nurse; and
2. Taking such other and further action as deemed necessary and proper.

DATED: October 4, 2011

*Louise R. Bailey*

for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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Exhibit B

Respondent's Withdrawal of Request for Hearing

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues  
Against:

**ADAM JASON APODACA**

Respondent.

OAH Case No.: 2011100828  
Agency Case No.: 2012-199

**RESPONDENT'S WITHDRAWAL OF  
REQUEST FOR HEARING**

In accordance with California Code of Regulations, title 1, section 1014, subdivision (c), I hereby withdraw my request for hearing previously filed on or about March 10, 2011, and waive my right to a hearing in the above-entitled matter. I understand that the Board of Registered Nursing shall decide whether to (1) proceed with the hearing as a default, (2) withdraw the matter, or (3) take the matter off calendar and issue a default decision and order. I understand that the outcome of this proceeding or default decision may be denial of my application for licensure. I am aware of my right to consult and retain legal counsel at my own expense, and to have counsel review this document and explain the consequences of withdrawing my request for hearing. I either have consulted with legal counsel or, being fully informed of my right to do so, I have chosen not to consult with legal counsel. This withdrawal and waiver is made knowingly, intelligently, and voluntarily. If counsel has been engaged, counsel's signature in the appropriate section below shall indicate that counsel has approved this withdrawal and waiver as to its form. Electronic or facsimile copies of this document and electronic or facsimile signatures thereto shall have the same force and effect as an original.

Dated: 3/9/2012

Respondent's Name:

Adam Jason Apodaca

Respondent's Signature:



Respondent's Mailing Address:

154 Oceanview Avenue

City, State and Zip Code:

Grover Beach, CA 93433

Respondent's Telephone:

(858) 336-0755

Check appropriate box:

- ☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- ☐ I am not now represented by counsel.